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September 20, 2010

VIA FACSIMILE REGULAR MAIL AND PACER

The Honorable Joel H. Slomsky
United States District Judge
United States District Courthouse
Eastern District of Pennsylvania
601 Market Street
Philadelphia, Pennsylvania 19106-1797

Re: Templin, et al. v. Independence Blue Cross, et al.
(E.D. Pa. No. 09-4092)

Dear Judge Slomsky:

We represent Plaintiffs in the above-referenced action.

We write in response to Defendants Independence Blue Cross and QCC Insurance Company's September 14 letter. Defendants' position concerning their obligations pursuant to this Court's July 27, 2010 Order is wholly inconsistent with their actions prior to the submission of the Level One Appeal by Plaintiffs and is made in bad faith.

Stripped of the hyperbole, Defendants' position appears to be that notwithstanding this Court's Order, they could not proceed with the administrative review without specific signed authorizations from each of the Plan members whose invoices are at issue. This argument is without merit. Indeed, since the filing of the First Amended Complaint, and at this Court's direction, the parties have discussed, in detail, each of the unpaid invoices. These conversations were had without benefit of any "authorization" from the affected Plan members.¹ The

¹ In addition, Viola Hendrick, one of the members at issue for whom an authorization was not proffered, is a named Plaintiff in the pending Action before this Court. Moreover, Jeryl Marks, the member who allegedly advised that he wanted the appeal withdrawn has now demanded that his appeal be heard and that his claims be paid. A copy of Mr. Marks' declaration, which was submitted in connection with Plaintiffs' Level two Appeal, is annexed hereto as Exhibit A.

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fact that these discussions are now continuing through a more formal "administrative review" changes nothing.


Moreover, the fact that Defendants claim to have responded directly to certain members as a result of the Level One Appeal establishes that the appeal itself was deemed legitimate by Defendants without the members' authorization. As such, it was incumbent upon Defendants to provide the Level One determinations to Plaintiffs' counsel. This has still not been done.²

Finally, Defendants' position regarding "purported" assignments of benefits is nothing more than trickery. First, there is no assignment of benefits – simply an assignment of collections. Indeed, the assignment of collections occurs daily with respect to hospitals, doctors, pharmacies and other medical service providers. Without the right to assign collections, patients would either be required to pay for medical expenses upfront, which in most cases they simply could not afford to do, or would collect for expenses that the medical provider, and not they, had incurred. Moreover, Defendants previously paid certain claims directly to the Plaintiff Pharmacies as a result of these assignments. For Defendants to now claim that the assignments are not legally binding is simply disingenuous.

We believe that Defendants' conduct has provided the futility of the administrative review ordered by the Court.

We thank the Court for its courtesies.

Respectfully,


Anthony Paduano

[Enclosures]

² We are, therefore, unable to confirm Defendants' alleged agreement to make payment on certain invoices necessitating the filing of a Level Two Appeal for all claims that remain unpaid. The Level Two Appeal was filed by Plaintiffs on September 16, 2010.

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cc: Katherine Katchen, Esq. (via electronic mail)
Mark Oberstaedt, Esq. (via electronic mail)
Timothy Cole, Esq. (via electronic mail)

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER TEMPLIN, VIOLA HENDRICKS,
FELDMAN'S MEDICAL CENTER
PHARMACY, INC., and FCS
PHARMACY LLC,

Plaintiffs,

vs.

INDEPENDENCE BLUE CROSS,
QCC INSURANCE COMPANY, and
CAREFIRST, INC.

Defendants.

Civil Action No.
09-0492 (JHS)

DECLARATION OF JERYL MARKS

JERYL MARKS, under penalty of perjury, declares:

1. I am a resident of Erie, Pennsylvania.
2. During the time period of October 1, 2007 to August 31, 2008, I received health insurance coverage through my employer's group health insurance plan issued by Independence Blue Cross and Blue Shield, identified by the group policy number 465171.
3. During the time in which I was covered under my employer's health insurance plan, I received both medicines and supplies from Feldman's Medical Center Pharmacy which were necessary for the treatment of my medical condition, Hemophilia, a life-long medical condition which requires regular and continued therapy.
4. On February 11, 2007, I executed a Service Agreement/Assignment of Benefits assigning and transferring to FCS Pharmacy LLC

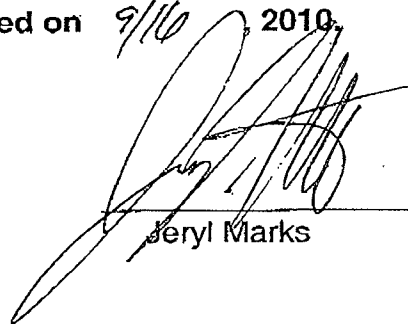
and its associated contract providers all rights, title and interest to reimbursement payable to me for pharmacy services provided to me. A copy of the Service Agreement/Assignment of Benefits is annexed hereto as Exhibit A.

5. In August, 2010, I was contacted by a representative of IBC concerning many of my medical benefits claims. This contact left me nervous and confused since I had previously been contacted by a special investigator with the Food and Drug Administration concerning these same issues. I understand that this special investigator was sent to speak to me by IBC.

6. As a result, I asked that my appeal be withdrawn at the time because I was frightened. By making this request, I did not understand, nor did I intend, to excuse IBC or any other insurer from payment for drugs that I received. I am outraged that my claims have not been paid and I demand that my appeal be processed immediately.

7. I demand that Independence Blue Cross and Blue Shield (and all other responsible insurance carriers) pay my claims.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 9/16/2010.



Deryl Marks

EXHIBIT A

SERVICE AGREEMENT/ASSIGNMENT OF BENEFITS

Patient Name:

Jeryl Marks

Patient ID Number:

201277

Date:

2/11/07

Consent for Treatment

I consent to treatment and services provided by Factor Health Management, LLC (FHM), FCS Pharmacy LLC (FCS) and/or associated contract providers consistent with a plan of care authorized by my physician, FHM care team and myself. All pharmacy services will be authorized by my insurance company. I understand that enrollment is my choice and that I can disenroll at any time.

Consent for Record Retention/Acknowledgement of Receipt of Notice of Privacy Practices/Patient's Rights and Responsibilities.

I understand that FHM, FCS and its associated contract providers will keep a record of my care. I acknowledge that I have received a copy of: (i) FHM and FCS' HIPAA Notice of Privacy Practices for Personal Health Information, which describes how FHM, FCS and/or associated contract providers may use and disclose the information contained in my record and explains my rights with respect to such information; (ii) FHM's Confidentiality Policy; (iii) a written description of Patient's Rights and Responsibilities; and (iv) FHM's Grievance Procedure.

Assignment of Benefits/Authorization for Payment/ Financial Responsibility

In consideration of services provided by FHM, FCS and its associated contract providers, I hereby assign and transfer to FHM and FCS all rights, title and interest to reimbursement payable to me for services provided by FHM, FCS and its associated contract providers. I agree to immediately turn over to FHM, either by endorsing any check that I receive, or by sending the amount of the payment that I receive, for services rendered by FHM, FCS or its associated contract providers. Under no circumstance shall I retain any such payment.

I request that FHM act on my behalf to submit charges for services rendered by FCS or its associated contract providers and I hereby authorize payment directly to FHM, FCS or its associated contract providers of any benefits otherwise payable for items/services, at a rate not to exceed FHM's regular charges for such items/services. I hereby authorize FHM, FCS or its associated contract pharmacies to bill for services and receive payment directly from my private health insurance, Medicare and/or Medicaid.

I understand that I am responsible for and will pay in full the portion of my bill not covered by insurance companies, governmental agencies or third party payors, including; but not limited to, any applicable co-payments, share of cost payments, deductibles, denials and charges for services not covered by my insurance company, a governmental agency or third party payor, such as charges for services that are determined by such entity not to be medically necessary or not covered under the terms of my health plan. In consideration of services to be provided, I agree to pay FHM and FCS in accordance with the regular rates and terms of each applicable provider. Should the account be referred to an attorney or collection agency for collection, I agree to pay reasonable attorney's fees and collection expenses.

Relationship between Physician and Factor Health Management

FHM will work with my physician and incorporate my physician's treatment plan within the FHM care plan. I understand that my physician is not an employee or agent or associated in any way with FHM or FCS. FHM, FCS and its associated contract pharmacies shall not be liable for any act or omission of my physician or for following my physician's orders.



**Factor Health
Management, LLC**
Choice, Quality, Community Support

7700 Congress Avenue, Suite #3109, Boca Raton, FL 33487
T#: (866) 322-3461 F#: (561) 981-8804

Signature of Agreement/ Witness

Legal Name of Patient

Date

Signature of Patient, Parent or Legal Guardian

Date

Witness

Date

Signature of FHM/FCS Representative Title

Date

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